



**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN**

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August 10, 2021

In Re: *Brown v. Bank of America*, Case 12-cv-12685

To the attention of: Jacqueline Brown and Bank of America:

Hon. Robert H. Cleland, who presided over the above-mentioned case, has informed the Clerk that it recently came to his attention that while presiding over this case years ago, he owned stock in Bank of America. His ownership of such stock in no way affected or impacted any decisions made in this case. However, stock ownership of even an insignificant value nonetheless creates a conflict and requires a judge's recusal (disqualification) under the Code of Conduct for United States Judges. Thus, Judge Cleland directed that I notify the parties of the conflict.

Advisory Opinion 71, from the Judicial Conference Codes of Conduct Committee, provides some guidance for addressing disqualification that is not discovered until after a judge has participated in a case:

[A] judge should disclose to the parties the facts bearing on disqualification as soon as those facts are learned, even though that may occur after entry of the decision. The parties may then determine what relief they may seek and a court (without the disqualified judge) will decide the legal consequence, if any, arising from the participation of the disqualified judge in the entered decision.

Although Advisory Opinion 71 contemplated disqualification after a Court of Appeals oral argument, the Committee explained "[s]imilar considerations would apply when a judgment was entered in a district court by a judge and it is later learned that the judge was disqualified."

With Advisory Opinion 71 in mind, you may respond to Judge Cleland's disclosure of a conflict in this case. Should you wish to respond, please submit your response in writing to the address above on or before September 10, 2021. Any response will be considered by another judge of this court without the participation of Judge Cleland.

Sincerely,

A handwritten signature in black ink, appearing to read "Kinikia D. Essix".

Kinikia D. Essix  
Court Administrator